Cited as "1 FE Para. 70,203"

Valero Industrial Gas, L.P. (ERA Docket No. 89-04-NG), February 22, 1989.

DOE/FE Opinion and Order No. 300

Order Authorizing Increased Exportation of Natural Gas to Mexico and Granting Intervention

I. Background

On January 19, 1989, Valero Industrial Gas, L.P. (Vigas), filed an application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), pursuant to Section 3 of the Natural Gas Act (NGA) and DOE Delegation Order No. 0204-111, requesting an amendment to its two-year blanket export authorization previously granted on October 20, 1987, in DOE/ERA Opinion and Order No. 199 (Order 199).1/ Order 199 permits Vigas to export to Mexico a total volume of up to 4.38 Bcf of domestic natural gas for short-term or spot market sales.

By this application, Vigas seeks to increase the total authorized volume by an additional 27.5 Bcf over the remaining term of the authorization which took effect November 1, 1987, and ends November 1, 1989. Vigas intends to sell the additional gas to Petroleos Mexicanos (Pemex), Mexico's national oil company, under a gas purchase agreement that is currently being finalized, as well as to fulfill its supply obligations under an ongoing contract with Pemex. The new contract calls for the sale of 95,000 Mcf per day.

The blanket authorization granted in Order 199 succeeded an authorization previously held by Vigas to export up to 6,000 Mcf per day of gas to Pemex under a contract which expired November 1, 1987.2/ Pemex has been purchasing gas from Vigas for resale to general service customers, including residential, commercial and industrial customers, in the city of Piedras Negras. Vigas is currently the only supplier for Piedras Negras. Pemex has recently asked Vigas to provide up to 95,000 Mcf per day of gas in addition to the 6,000 Mcf per day that Vigas is supplying under a contract which commenced on the same day the previous one expired. The additional quantity would be purchased by Pemex for general service distribution in and near the city of Monterrey under a separate new sales agreement. According to the application, Pemex requested the additional volumes because deliverability from existing local reserves is not sufficient to meet growing requirements of its distribution customers in the Monterrey area.

Under its existing export authority, Vigas increased its daily sales to Pemex on January 16, 1989, by 95,000 Mcf to a total of 101,000 Mcf. However, Vigas states in its application that, at the present delivery rate, its authorized export limitation of 4.38 Bcf will be reached by February 23, 1989, substantially before its current authority expires. Therefore, it needs approval to export an additional 27.5 Bcf in order to continue supplying Pemex at the 101,000 Mcf per day level pursuant to the two contracts until November 1, 1989. Unless the requested authority is granted, Vigas asserts that it will have to stop deliveries of gas to Pemex on February 23, causing Pemex to curtail its service to both Piedras Negras and Monterrey.

Vigas states in its application that the sales under each agreement with Pemex would be made on a short-term basis provided the gas is available to Vigas and only if Pemex needs and requests the gas. According to Vigas, the specific terms of the two agreements reflect arms-length negotiations and the price of the gas depends on prevailing market conditions.

The gas would be exported through existing pipeline facilities at Eagle Pass and McAllen, Texas. However, Pemex has indicated that it may take a portion of the gas at other existing delivery points on the international boundary.

A notice of Vigas' application was issued on January 27, 1989, inviting protests, motions to intervene, notices of intervention, and comments to be filed by February 15, 1989.3/ On February 1, 1989, a letter from Pemex was received strongly supporting Vigas' request for additional volumes. A motion to intervene without comment or request for additional procedures was filed by Clajon Gas Company. This order grants intervention to this movant.

II. Decision

The application filed by Vigas has been evaluated to determine if the proposed volume increase to its existing export authorization meets the public interest requirements of Section 3 of the NGA. Under Section 3, an export must be authorized unless there is a finding that it "will not be consistent with the public interest." 4/ In reviewing natural gas export applications, domestic need for the gas to be exported and any other issues determined to be appropriate under the circumstances in a particular case will be considered.

Vigas' request to increase the volume of natural gas it is permitted to export to Mexico over the remaining nine months of its present authorization is consistent with Section 3 of the NGA and with DOE's international gas trade policy. The current gas surplus, together with the short time remaining under the export authorization and the fact that no party opposed the application, support a finding that there is no domestic need for the gas at this time and that need is unlikely to become an issue during the balance of this authorization. In addition, granting the amended authority requested by Vigas will further the Secretary of Energy's policy goals of reducing trade barriers by encouraging market forces to achieve a more competitive distribution of goods and resources. Finally, the requested additional exports will enable Pemex to avoid potential curtailments of gas supplies to distribution customers.

After taking into consideration all the information in the record of this proceeding, I find that approval of the amendment to Vigas' existing authorization to increase the volume limitation by 27.5 Bcf through October 31, 1989, is not inconsistent with the public interest and should be granted.

ORDER

For the reasons set forth above, pursuant to Section 3 of the Natural Gas Act, it is ordered that:

A. The blanket authorization previously granted to Valero Industrial Gas, L.P. (Vigas), in DOE/ERA Opinion and Order No. 199 (Order 199), issued October 20, 1987, which permits the export of a total of 4.38 Bcf of natural gas to Mexico through October 31, 1989, is hereby amended to increase the volume by an additional 27.5 Bcf to a total of 31.88 Bcf over the term of the authorization.

B. This natural gas may be exported at any point on the international border between Mexico and the United States where existing pipeline facilities are located.

C. Vigas shall continue to file each calendar quarter with the Office of Fuels Programs, Fossil Energy, FE-50, Room 3F-056, 1000 Independence Avenue, S.W., Washington, D.C., 20585, quarterly reports indicating whether sales of exported gas have been made and, if so, giving, by month, the total volume of exports in MMcf and the average selling price per MMBtu at the international border. The reports shall also provide the details of each transaction, including transporters, points of exit, markets served and, if applicable, the per unit demand/commodity charge breakdown of the price.

D. The motion to intervene filed by Clajon Gas Company is hereby granted, provided that its participation is limited to matters specifically set forth in its motion to intervene and not herein specifically denied, and that the admission of such intervenor shall not be construed as recognition that it might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., on February 22, 1989.

--Footnotes--

1/ 1 ERA Para. 70,730 (October 20, 1987).

2/ 1 ERA Para. 70,575 (November 28, 1984).

3/ 54 FR 4892, January 31, 1989. Vigas' request for expedited action on its application was granted and the comment period was shortened from 30 to 15 days to enable a decision on whether to grant the application to be reached by February 23.

4/ 15 U.S.C. Sec. 717b.